

McGowan  
Flade  
Pickrell

# LAW LIBRARY

## ARIZONA ATTORNEY GENERAL

April 2, 1954

Letter Opinion  
No. 54-92-L

Mr. J. N. Brennan, Manager  
State Labor Department  
The Industrial Commission of Arizona  
State Building  
Phoenix, Arizona

Re: Employee representation on wage board  
of the Industrial Commission pursuant  
to the Women's and Minors' Minimum Wage  
Law of 1937.

Dear Mr. Brennan:

Your letter of March 26, 1954, has been received and, pursuant to your request, we are rendering our opinion to you prior to April 5, 1954.

The first question raised in your letter requested our opinion as to whether, under the provisions of Section 56-405, A.C.A. 1939, a representative of the employees, other than those directly employed in the occupation, trade or industry affected, could serve on the wage board as an employee representative.

The example you gave was that of union business agent or union officer.

Section 56-405, A.C.A. 1939, provides in pertinent part as follows:

"56-405. Wage board--Composition--Powers and duties.--1. (a) A wage board shall be composed of three (3) representatives of the employees in any occupation, trade, or industry and an equal number of representatives chosen from among the employers in such occupation, trade or industry, and one (1) industrial commissioner who shall be designated as chairman. The commission shall appoint as the members of such wage board the representatives of the employers to be selected, from nominations submitted by employers and the representatives from the employees employed in such occupation (,) trade or industry from the nominations submitted by the employees in such occupation, trade or industry, provided, however, that all such representatives appointed

by the commission shall be citizens of the state of Arizona, and shall be selected from individuals engaged in the occupation, trade or industry for which a wage is being investigated.\* \* \* (Emphasis supplied)

This section is a part of the Women's and Minors' Minimum Wage Law of 1937, and provides for the creation of a wage board for the purpose of aiding the Industrial Commission to ascertain a minimum fair wage for the employment of women and minors in any occupation within the state. The statute requires that members appointed to the wage board possess certain qualifications. It is obvious that those representatives of the employees appointed to the wage board have two qualifications: First, that these representatives shall be citizens of Arizona, and Second, that they shall be selected from individuals engaged in the occupation, trade or industry for which a wage is being investigated.

In view of this clear language which admits no interpretation other than the common ordinary meaning of the words employed, a business agent, union official or any other person selected by the employees is not qualified to sit as a member of the wage board unless such person is employed in the occupation, trade, or industry affected.

Question Two requests from us an opinion as to whether either group of wage board members, employers or employees, could have counsel, legal or otherwise, sitting as an advisor of their individual group during the wage board hearing.

Our answer to this interrogatory is that they may not. The wage board created by the provisions of Section 56-405, supra, has no standing as a private party, but is an agency of the State of Arizona, acting solely in the public interest, which public interest, in this case, is the ascertainment of a wage, fairly and reasonably commensurate with the value of the service or class of service rendered and sufficient to meet the minimum cost of living necessary for health. Each properly qualified member of the wage board, when sitting on the board during a hearing, becomes a member of a state administrative board, with fact finding duties.

The requirement that three members be employee representatives and that three members be employer representatives is merely a prerequisite or a qualification for appointment to the board. To allow members of the wage board to have counsel during hearings, which counsel would represent either the employee or the employer, would not be observing those requirements of fair hearing and fair play which are binding on administrative agencies such as this wage board.

This opinion is not intended to limit in any way the right of

Mr. J. N. Brennan, Manager  
State Labor Department

April 2, 1954  
Page Three

individual members to consult counsel when they are not sitting as wage board members during a hearing.

We trust this fully answers your questions.

Yours very truly,

JOSEPH U. CRACCHIOLO  
Assistant to the  
Attorney General

JUC:bhh